

Notice of Allowability	Application No.	Applicant(s)	
	09/822,295	JALLAL ET AL.	
	Examiner	Art Unit	
	Anne Holleran	1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 7/23/2004.
2. ☒ The allowed claim(s) is/are 12,23-28,31,33 and 34.
3. ☒ The drawings filed on 20 April 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eve Frank on August 13, 2004.

The application has been amended as follows:

In the claims:

Claims 29 and 30 were canceled without prejudice.

Claim 31. An isolated, enriched or purified polypeptide comprising the polypeptide of claim 12 fused to [non-PTP04 polypeptide] a second polypeptide.

Claim 33. A [pharmaceutical] composition comprising the polypeptide of claim 12 and a pharmaceutically acceptable carrier.

Claim 34. The isolated, enriched or purified polypeptide of claim 31, wherein said [non-PTP04 polypeptide] second polypeptide is hemagglutinin or GST.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The claimed inventions are free of the prior art. With respect to Cheng, the claimed inventions, drawn to polypeptides having at least 90% identity over the length of amino acid residues 49-294 of SEQ ID NO:2, are distinguished from Cheng because the specification (page 17, line 25 to page 18, line 2) defines percent identity as the number of identical residues (matches between the two sequences) over the total number of residues and multiplying the product by 100. In the case of Cheng, the total number of residues to be compared is 246 (the length of acid residues 49-294 of SEQ ID NO: 2) and the number of matches is 219 amino acid residues. Dividing the number of matches (219) by the total number of residues (246) and multiplying by 100 demonstrates that Cheng's sequence has only 89% sequence identity with the claimed polypeptides. Therefore, the rejection over Cheng is withdrawn and Cheng does not teach or fairly suggest the claimed inventions.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Office should be directed to Anne Holleran, Ph.D. whose telephone number is (571) 272-0833. Examiner Holleran can normally be reached Monday through Friday, 9:30 am to 3:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at (571) 272-0787.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at telephone number (703) 571-1600.

Anne L. Holleran
Patent Examiner
August 13, 2004

am Harris
ALANA M. HARRIS, PH.D.
PRIMARY EXAMINER
8/17/2004